

SENATE SUMMARY OF HOUSE AMENDMENTS

**SB 13 By Senator B. Gautreaux**

**KEYWORD AND SUMMARY AS RETURNED TO THE SENATE**

RETIREMENT BENEFITS. Allows garnishment of state retirement or pension system, plan, or fund benefits of an elected official or public employee to pay fine or restitution, or any costs of incarceration, probation, or parole, imposed for a felony associated with his office which occurred on or after July 1, 2010.. (7/1/10)

**SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL**

1. Requires that the offense under proposed law occur on or after July 1, 2010.

**DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE**

DIGEST

Present law (R.S. 13:3881(A) and R.S. 20:33) provides for a general exemption from seizure under any writ, mandate, or process whatsoever for certain income or property of a debtor. Specifies that, except as provided in present law, the following shall be exempt from all liability for any debt except alimony and child support:

- (1) All pensions.
- (2) All tax-deferred arrangements.
- (3) Annuity contracts.
- (4) All proceeds of and payments under all tax-deferred arrangements and annuity contracts.

Proposed law retains present law. Provides that the pension or retirement benefit of an elected official or public employee may be garnished or seized to pay any fine or restitution or any costs of incarceration, probation, or parole, imposed as a penalty for conviction of a felony associated with his office and the offense occurs on or after July 1, 2010. Further provides that such garnishment shall not impinge on the community property interest of a spouse or former spouse not subject to the garnishment.

Present law (R.S. 11:291) provides for protection of a spouse's community property interest in the public retirement or pension benefit of a member or retiree of a state or statewide retirement system.

The state public retirement systems are:

- (1) The Louisiana State Employees' Retirement System (LASERS);
- (2) The Teachers' Retirement System of Louisiana (Teachers'); and
- (3) The Louisiana School Employees' Retirement System (LSERS); and
- (4) The State Police Pension and Retirement System (SPPRS).

The statewide public retirement systems are:

- (1) The Assessors' Retirement Fund (LARF);

- (2) The Clerks of Court Retirement and Relief Fund (Clerks);
- (3) The District Attorneys' Retirement System (DARS);
- (4) The Firefighters' Retirement System (FRS);
- (5) The Municipal Employees' Retirement System of Louisiana (MERS);
- (6) The Municipal Police Employees' Retirement System (MPERS);
- (7) The Parochial Employees' Retirement System of Louisiana (PERS);
- (8) The Registrars of Voters Employees' Retirement System (ROVERS); and
- (9) The Sheriffs' Pension and Relief Fund (Sheriffs').

Proposed law retains present law.

Present law (R.S. 11:292) provides that notwithstanding any other provision of present law to the contrary, any retirement allowance, benefit, or refund of accumulated contributions paid to any member, former member, or retiree under the provisions of any public retirement system, or the portion of a retirement allowance, benefit, or refund of accumulated contributions paid to a spouse or former spouse under the provisions of present law (R.S. 11:291) shall be subject to garnishment or court-ordered assignment to pay child support.

Proposed law retains present law.

Various provisions of present law specific to particular public retirement or pension systems, plans, or funds provide that any annuity, retirement allowance or benefit, or refund of contributions, or any optional benefit or any other benefit paid or payable to any person under the provisions of present law is exempt from any state or municipal tax and is exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and is unassignable.

Proposed law retains present law.

Some provisions of present law regarding such exemptions specify that garnishment or assignment pursuant to present law (R.S. 11:292) is an exception to the provisions exempting retirement or pension benefits from execution. Provide that benefits may be garnished or assigned pursuant to present law.

Proposed law retains present law. These provisions apply to LASERS, Teachers', LSERS, SPPRS, LARF, Clerks, DARS, MERS, the Employees' Retirement System of the city of Baton Rouge and the parish of East Baton Rouge, the Employees' Retirement System of the city of Shreveport, ROVERS, Sheriffs', MPERS, FRS, the Firemen's Pension and Relief Fund for the City of Bossier City, and the Policemen's Pension and Relief Fund for the city of Bossier City.

Other provisions of present law exempting retirement or pension benefits from garnishment or execution do not contain a specific reference to the exception for seizure for child support in present law (R.S. 11:292), although such exception applies to the benefits. These provisions apply to judges and court officers; members of the Teachers' Optional Retirement Plan; Orleans Parish school employees; LSU Retirement System members; employees of the city of Alexandria and of the city of Bogalusa; firefighters in the city of Alexandria, the consolidated fire districts of Bastrop, the city of Bossier City, the city of Houma, the city of Lake Charles, the city of Monroe, the city of New Orleans, Fire Protection District Number One for the parish of Ouachita, the city of Shreveport, and the city of West Monroe; police officers in any municipality having a population between 7,500 and 250,000 and in the city of Lafayette; and employees of the New Orleans Sewerage and Water Board.

Proposed law retains present law and adds specific reference to the applicable exception for child support contained in present law.

Proposed law provides that the pension or retirement benefit of a member, former member, or retiree payable from any public retirement or pension system, plan, or fund may be subject to seizure or garnishment for payment of any restitution or fine, or any costs of incarceration, probation, or parole, imposed upon conviction of or a plea of guilty or nolo contendere to a felony associated with the service as an elected official or public employee for which such retirement benefit was earned or accrued but only as to an offense that occurs on or after July 1, 2010.

Proposed law provides that such garnishment shall not impinge on the community property interest of a spouse or former spouse not subject to the garnishment.

Proposed law specifies that, notwithstanding any provision of law to the contrary, a garnishment authorized pursuant to proposed law may be continuing in nature as necessary to pay the court-ordered restitution or fine in full.

Effective July 1, 2010.

(Amends R.S. 11: 292, 570, 930, 951.3, 952.3, 1378, 1905, 3014, 3051, 3111, 3140, 3198, 3229, 3321(A), 3345, 3389, 3408, 3440, 3470, 3513, 3608(A), 3691, 3770, 3800, and 3823 and R.S. 13:3881(D)(1))

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